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OFFICE OF PETITIONS

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| In re Application of | : | |
| Nils Peter Nordqvist et al. | : | |
| Application No. 10/023,264 | : | DECISION ON PETITION |
| Filed: December 18, 2001 | : | UNDER 37 C.F.R. § 1.181 |
| Attorney Docket No. 22645-7202 | : | |
| Title: HEARING PROSTHESIS WITH | : | |
| AUTOMATIC CLASSIFICATION OF THE | : | |
| LISTENING ENVIRONMENT | : | |

BACKGROUND

This is a decision on the petition under 37 C.F.R. § 1.181, filed June 25, 2007, requesting that the holding of abandonment in the above-identified application be withdrawn.

A second renewed petition under 37 C.F.R. § 1.55(c) was filed September 27, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of foreign Danish Application No. PA 2000 00554, filed April 4, 2000. A decision on the petition under 37 C.F.R. § 1.55(c) will be mailed in due course under separate cover.

ANALYSIS

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed September 14, 2006, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue or publication fees¹. Accordingly, the above-identified application became abandoned on December 15, 2006. A Notice of Abandonment was mailed on May 24, 2007.

With the present petition, Petitioner has set forth that on December 14, 2006, a Request for Continued Examination (RCE) was submitted, along with a set of formal drawings.

The electronic record has been reviewed, and it is noted that an RCE, the associated fee, and a set of drawings were received in the Office on December 14, 2006. It is further noted that the RCE failed to indicate that a submission had been included. On May 15, 2007, a "Notice of Improper Request for Continued Examination (RCE)" was mailed by the Office, indicating that the request was not accompanied by a submission - presumably due to Petitioner's filing error.

Petitioner has requested that the holding of abandonment in the above-identified application be withdrawn.

It is clear that a response was timely submitted on December 14, 2006.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that a submission was timely provided.

Accordingly, the petition under 37 C.F.R. §1.181(a) is GRANTED. The holding of abandonment is WITHDRAWN.

CONCLUSION

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the drawings submitted on December 14, 2006 - can be processed.

¹ See MPEP § 710.02(e).

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225². All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.



Paul Shanowski
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United States Patent and Trademark Office

² Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.